IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 24417 of 2005

For Approval and Signature:

HONOURABLE MR.JUSTICE M.R. SHAH

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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PATEL MANJULABEN BABUBHAI - Petitioner(s)

Versus

REGIONAL PASSPORT OFFICER - Respondent(s)

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Appearance :

MR PRAFULL B PATEL for Petitioner(s) : 1,
RULE SERVED BY DS for Respondent(s) : 1,
MR JITENDRA MALKAN for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE M.R. SHAH

Date : 04/02/2006

ORAL JUDGMENT

1. By way of this petition under Article 226 of the Constitution of India, the petitioner has prayed for appropriate writ, order and/or directions directing the respondent Regional Passport Officer, Ahmedabad to carry out the correction in the passport so far as the date of birth is concerned i.e. from 1/6/1955 to 1/6/1958 mentioned in the Birth Certificate issued by the Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi, District ; Mehsana.

2. It is the contention on behalf of the petitioner that the petitioner was born on 1/6/1958 and her date of birth was

wrongly mentioned in the Birth Certificate as 1/6/1955 issued by the Hadvi Gram Panchayat, Hadvi, District ; Mehsana. According to the petitioner, her correct date of birth is 1/6/1958 and therefore, the petitioner approached the learned Chief Judicial Magistrate, Mehsana by way of Misc.Civil Application No.633 of 2005 requesting to direct the competent authority under the Birth and Death Registration Act - the Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi, District ; Mehsana to make the necessary correction in the Register maintained by the said authority under the provisions of the Birth and Death Registration Act (hereinafter referred to as ”the Act” for short) by correcting the date of birth as 1/6/1958 in the Birth Certificate and to issue the

corrected certificate accordingly. That the learned Chief Judicial Magistrate passed order dtd.25/7/2005 directing Hadvi Gram Panchayat to register the birth of the petitioner in the register maintained under the provisions of the Act as 1/6/1958 and accordingly relying upon the said judgement and order, the Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi, District ; Mehsana has issued the Certificate of Birth Death mentioning the birth date of the petitioner as 1/6/1958. It is the contention of the petitioner that earlier the petitioner obtained passport on the basis of the Certificate issued by the Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi mentioning her date of birth as 1/6/1958 under the provisions of the Act, copy of which is at Annexure-A to the petition.

Now, in view of the order passed by the Chief Judicial Magistrate, Mehsana and the Certificate issued by Hadvi Gram Panchayat mentioning the date of birth of the petitioner as 1/6/1958 which is issued under the provisions of the Act, the petitioner has approached the respondent - Regional Passport Authority to make necessary correction in the passport and/or to issue a fresh passport mentioning her death of birth as 1/6/1958 and as the respondent has not acceded the request of the petitioner, the petitioner has preferred the present petition.

3. As there was difference of three years, this Court had some doubts and therefore, this Court directed the petitioner to produce the order passed by

the learned Chief Judicial Magistrate and the application submitted by the petitioner before the learned Chief Judicial Magistrate and on going through the same, it appears that it was submitted by the petitioner and her father that there is no entry of birth of the petitioner in the register maintained by the competent authority under the provisions of the Act and therefore, they requested the Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi to register the birth of the petitioner in the Register showing her date of birth as 1/6/1958. However, it is found that in fact, the petitioner was already having a certificate issued by the Talati-cum-Mantri, Hadvi Gram Panchayat showing her the date of birth as 1/6/1955, copy of which is produced at Annexure-A to the

petition and therefore, this Court found that the petitioner has obtained the order from the learned Chief Judicial Magistrate, Mehsana dtd.25/7/2005 in Misc.Civil Application No.633 of 2005 by making false statements and even this Court had also some doubt with regard to the certificate alleged to have been issued by the Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi (Annexure-A) and therefore, this Court directed Ms.Archana Raval, learned AGP to call for the original records / Register for the year 1955 and 1958 maintained under the provisions of the Act and the Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi was joined as party respondent No.2. The Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi presented before this Court and has made a statement at bar that the Register

prior to 1961 maintained under the provisions of the Act is with the Mamlatdar and therefore, this Court directed the Mamlatdar to produce the records / Registers for the year 1955 and 1958. In pursuant to the same, the Mamlatdar and Talati both are present in the Court and have made a statement at bar that they do not have register of 1955 and on verification of the Certificate showing the date of birth of the petitioner dtd.1/6/1955, they have submitted that the said certificate at Annexure-A is forged, concocted and got-up one. There is no such certificate issued by the Talati-cum-Mantri, Hadvi Gram Panchayat and that there was no officer /Talati-cum-Mantri of Hadvi Gram Panchayat named J.K. Thakor who has issued the certificate at Annexure-A.

4. Upon a query being made by this Court, learned advocate appearing on behalf of the petitioner as well as the petitioner, it is submitted by the petitioner who is present in the court that the Certificate at Annexure-A was obtained by her elder brother who is no more and has expired and the petitioner all through out treated the said certificate at Annexure-A as genuine and valid. This Court could have directed to initiate the proceedings and/or file criminal complaint for producing false and fabricated certificate, however, as it is the contention of the petitioner that the said certificate at Annexure-A was obtained by the petitioner through her brother who is not alive, no fruitful purpose will be served if criminal

proceedings are initiated against the petitioner.

5. At this stage, Mr.Patel, learned advocate appearing for the petitioner has tendered one application written by the petitioner who is personally present in the wherein it is stated that she may be permitted to withdraw the present petition and has tendered unconditional apology.

6. Mr.Patel, learned advocate appearing on behalf of the petitioner has surrendered the original certificate, copy of which produced at Annexure-A and another Certificate mentioning the date of birth of the petitioner as 1/6/1958 and has submitted that the petitioner has surrendered both the Certificates issued

under the provisions of the Act and the petitioner will never use the said Certificates. Accordingly, the Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi is hereby directed to make note in the Register maintained under the provisions of the Act with regard to surrendering of both the Certificates more particularly the recent certificate issued under the provisions of the Act pursuant to the order passed by the learned Chief Judicial Magistrate, Mehsana dtd.26/7/2005 in Misc.Civil Application No.633 of 2005 mentioning the date of birth of the petitioner as 1/6/1958. Mr.Patel, learned advocate for the petitioner has submitted that as such, the Passport in favour of the petitioner is already now cancelled. Mr.Patel, learned advocate appearing on

behalf of the petitioner after obtaining necessary instructions from the petitioner has made a statement at bar that the petitioner is ready and willing to pay exemplary cost, which is quantified at Rs.25,000-00 (Rupees Twenty Five Thousand only) which the petitioner has agreed to pay within a period of TWO WEEKS from today. It is required to be noted that apart from the fact that the Certificate at Annexure-A alleged to have been issued by the Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi mentioning the date of 1/6/1958 is forged and bogus. Even the petitioner has obtained order from the learned Chief Judicial Magistrate, Mehsana by making false statements that earlier the birth of the petitioner is not registered in the register maintained under the

provisions of the Act, which is factually incorrect, as the very petitioner has produced the copy of the Certificate issued by the Talati-cum-Mantri, Hadvi Gram Panchayat, Hadvi at Annexure-A to the petition. Under the circumstances, not only the petitioner has not approached this Court with clean hands but has also tried to mislead this Court also and has produced the certificate which is forged and concocted one. However, considering the facts as stated hereinabove, no further orders are passed by this Court initiating criminal proceedings and the request of the petitioner to withdraw the present petition is accepted as the petitioner has surrendered both the certificates and her passport is already cancelled now. Therefore, the petitioner will not be in a

position to get any passport now and is sufficiently punished. Under the circumstances, the petitioner is permitted to withdraw the present petition. However, the petitioner is **directed to deposit** the aforesaid amount of **Rs.25,000.00 (Rupees Twenty Five Thousand only) towards the exemplary costs** within the registry of this Court within a period of **TWO WEEKS** from today. The registry is directed to notify this matter before this court for passing appropriate order for disbursement of the said amount of exemplary costs to the Legal Aid Committee and other authorities.

7. If the aforesaid amount of Rs.25,000.00 is not deposited by the petitioner within a period of two weeks as aforesaid, necessary actions will be

initiated against the petitioner for non-compliance of the directions issued by this Court inclusive of the actions under the provisions of the Contempt of Courts Act.

8. Over and above the aforesaid amount of Rs.25,000.00, the petitioner is also **directed to pay Rs.5,000.00 (Rupees Five Thousand only) to the Regional Passport Authority, Ahmedabad as well as Rs.2,500.00 (Rupees Two Thousand Five Hundred only) to the Talati-cum-Mantri, Hadiya Gram Panchayat, Hadiya, District ; Mehsana,** as they are unnecessarily dragged for no fault of them and the they have to incur the legal expenses.

9. This petition is dismissed as withdrawn with the aforesaid directions.

(M.R.SHAH,J.)

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